# NON-FISCAL POLICY ITEMS

## ADMINISTRATION -- GENERAL PROGRAMS

### 1. POSITION REPORT REQUIREMENTS

Require that any report prepared by DOA on the number of state full-time equivalent (FTE) positions separately identify the number of positions under: (a) the University of Wisconsin Hospitals and Clinics Board; (b) the Board of Regents of the UW System that are funded by gifts, grants, and auxiliary enterprises revenue or by federal revenue; and (c) all remaining positions in state government. Under s. 16.50(3) of the statutes, DOA is currently required to submit quarterly reports to the Joint Committee on Finance detailing the number of federal positions and certain positions under the UW System that were created during the preceding quarter. In practice, this report lists all state agency FTE positions by funding source and includes information on the number of FTE positions at the UW Hospitals and Clinics Board. However, there is no statutory requirement that the all agency and UW Hospitals and Clinics Board information be provided.

## BUDGET MANAGEMENT AND COMPENSATION RESERVES

### 2. DOA REVIEW OF ALL STATE-OWNED PROPERTY

Create a session law provision to require that the Secretary of the Department of Administration complete, by July 1, 2004, a review of all state-owned real and personal property for potential sale or lease. Specify, however, that such review would not be required for any specific facility or institution that is established by statute.

## CORRECTIONS -- ADULT CORRECTIONS

### 3. APPLICABLE LAW IN PRIVATE OUT-OF-STATE PRISON FACILITIES

Modify statutory language relating to out-of-state prison bed contracts to make provisions concerning applicable law in private out-of-state facilities consistent with provisions concerning applicable law in public out-of-state facilities. Currently, Wisconsin statutes provide that Wisconsin state prisoners, while in an institution of another state, are subject to all laws

regarding confinement of that state. There is an exception for public out-of-state facilities that provides, "except as otherwise provided for by any contract entered into under this subsection." There is no similar exception for private out-of-state facilities. The intent of the modification is to allow the Department to contractually insure that Wisconsin inmates confined in private out-of-state facilities are subject to the laws of Wisconsin, including sentence computation, discharge, early release, accumulation of good time credits, and inmate release accounts.

## 4. SENTENCING COMMISSION -- ANALYSIS AND MODIFICATION OF SENTENCING GUIDELINES

Modify statutory language associated with the sentencing guidelines as follows:

*Advisory Sentencing Guidelines Adopted by the Sentencing Commission*. Authorize the Commission to adopt and, as necessary, update advisory sentencing guidelines to: (a) promote public safety in a cost-effective manner; (b) promote consistency in sentencing practices; and (c) preserve the integrity of the criminal justice and correctional systems.

Under 2001 Act 109, the Sentencing Commission was created and required to adopt advisory sentencing guidelines to: (a) promote public safety; (b) reflect changes in sentencing practices; and (c) preserve the integrity of the criminal justice and correctional systems. For crimes committed on or after February 1, 2003, the court must use the advisory guidelines adopted by the Sentencing Commission or, if no guidelines have been adopted, the temporary advisory guidelines adopted by the Criminal Penalties Study Committee (CPSC). The court is not required to make a sentencing decision within any range or consistent with a recommendation specified in the guidelines, and there is no right to appeal a court's sentencing decision based on the court's decision to depart from the guidelines. At present, the Commission has not adopted advisory sentencing guidelines, and the temporary guidelines adopted by CPSC are used.

*Temporary Advisory Sentencing Guidelines Adopted by CPSC.* Require the Sentencing Commission to analyze whether the temporary advisory sentencing guidelines adopted by CPSC are adequately promoting the following objectives: (a) promoting public safety in a cost-effective manner; (b) promoting consistency in sentencing practices; and (c) preserving the integrity of the criminal justice and correctional systems. The Sentencing Commission must submit a report to the Governor, Legislature, and Supreme Court explaining its conclusions by January 1, 2004.

The CPSC was created under 1997 Act 283 to study the classification of criminal offenses in the criminal code and make recommendations concerning issues related to truth-in-sentencing, including temporary advisory sentencing guidelines. In its 1999 Final Report, the CPSC identified "11 major crimes which consume the vast majority – 72% – of those corrections resources devoted to prisoners," including burglary, first-degree sexual assault of a child, second-degree sexual assault of a child, first-degree sexual assault, second-degree sexual

assault, armed robbery, forgery, possession with intent to deliver cocaine, possession with intent to deliver THC, robbery, and theft. The CPSC developed temporary advisory sentencing guidelines for these crimes.

*Mandatory Sentencing Guidelines to Replace Temporary Advisory Sentencing Guidelines Adopted by CPSC.* Require the Sentencing Commission to adopt mandatory sentencing guidelines for felonies and misdemeanors for which a court may impose a bifurcated sentence, if the Commission determines that the temporary sentencing guidelines adopted by the CPSC are not adequately promoting the objectives of: (a) promoting public safety in a cost-effective manner; (b) promoting consistency in sentencing practices; and (c) preserving the integrity of the criminal justice and correctional systems.

In adopting mandatory sentencing guidelines, require the Commission to assign suggested ranges of punishment in order to promote the objectives specified above. Specify that range of punishment be based upon a combination of offense and defendant characteristics, but not conflict with any statutory provision relating to the penalties for that crime. Specify that the mandatory sentencing guidelines may also include any of the following: (a) conditions of extended supervision or probation to be imposed; (b) the length of a term of imprisonment to be imposed if, after the court withholds a sentence and places a defendant on probation, the court revokes probation; and (c) whether penalties should be imposed concurrently or consecutively if the defendant is convicted of more than one crime.

In developing mandatory sentencing guidelines, require the Commission to: (a) generally begin with crimes that result in the greatest number of bifurcated sentences being imposed; (b) generally, before developing guidelines for Class B to F felonies, develop mandatory guidelines for Class G to I felonies, unclassified felonies, and misdemeanors; and (c) beginning with the crimes that are committed most frequently, develop mandatory guidelines for crimes based on the frequency with which they are committed.

Require a court to consider the advisory guidelines when sentencing a person convicted of a crime occurring on or after February 1, 2003, unless mandatory guidelines have been adopted, in which case, the advisory guidelines would not apply. If mandatory guidelines are adopted, for crimes committed on or after December 31, 1999, require a court, when making a sentencing decision, to impose a sentence of a kind and within the range described in the mandatory sentencing guidelines, unless the court finds that there is an aggravating or mitigating factor that warrants a sentence outside the range. A party has the right to appeal a court's sentencing decision based on the court's decision to depart from the mandatory guidelines.

*Advisory Sentencing Guidelines for Alternatives to Incarceration.* Require the Sentencing Commission to develop advisory guidelines regarding the appropriate use of alternative to incarceration.

## DISTRICT ATTORNEYS

### 5. INSPECTING POULTRY PURCHASE RECORDS

Delete the current law requirement that poultry dealers must keep their poultry purchase records open to inspection at all reasonable times to any assistant district attorney (in addition to a district attorney, sheriff, deputy sheriff or any police officer). Records would continue to be open to inspection by a district attorney, sheriff, deputy sheriff or any police officer.

## ELECTIONS BOARD

### 6. ELECTION ADMINISTRATION FUND CREATED

Establish the following mechanism to enable the Board to receive and expend federal funds made available to the state under the Help America Vote Act of 2002 (HAVA).

*Segregated Trust Fund Created.* Establish an Election Administration Fund as a separate, nonlapsible segregated trust fund consisting of all moneys received from the federal government under HAVA. Provide that the State of Wisconsin Investment Board would have exclusive control of the investment and collection of the principal and interest of all moneys loaned or invested from the fund.

*FED Appropriation Created.* Create a FED continuing appropriation under the Board, funded from the election administration fund and consisting of all federal HAVA moneys received by the state. Authorize the Board to expend these funds for election administration costs. Further, authorize the Board to provide financial assistance from this appropriation to eligible counties and municipalities for election administration costs. The bill would create the appropriation as a state operations appropriation. Thus, while payments to counties and municipalities would be authorized from this appropriation, functions administered by the Board that would be eligible for HAVA funding could also be funded through this appropriation. Appropriations funding local assistance payments and state operations are not normally combined.

As a continuing appropriation, the Board would have the authority under this appropriation to expend all available federal revenues credited to the election administration fund, subject to the Department of Administration allotment process. The bill does not include any estimate of fund expenditures under this new appropriation.

*Current Law Federal Requirements Under HAVA.* HAVA creates a series of new requirements applicable to the states, including: (a) requiring all polling stations to be equipped with voting systems accessible to individuals with disabilities, including nonvisual accessibility

for the blind and visually impaired; (b) establishing minimum standards for voting systems; (c) creating a statewide voter registration list system beginning either January 1, 2004, or January 1, 2006; (d) imposing provisional voting and voting information requirements; and (e) establishing new requirements for voters who register by mail.

*Federal Fiscal Year (FFY) 2003 HAVA Funding.* The primary grant programs for state election administration activities under HAVA are contained in Titles I and II of the Act. From FFY 2003 HAVA appropriations, Wisconsin is expected to receive $7,115,000 in Title I funds in the 2002-03 state fiscal year. These Title I funds require no state match. The state is further expected to receive $15,390,000 in Title II HAVA funds in the 2003-04 state fiscal year, if the state: (a) files with the federal Election Assistance Commission a required state plan covering the current federal fiscal year; (b) files with the federal Election Assistance Commission a plan for the implementation of the uniform, nondiscriminatory administrative complaint procedure required under HAVA; and (c) provides the required 5% state match ($799,400). The bill does not provide any required state matching funds.

*Permissible Uses of Title I Funding.* Title I funds may be expended to: (a) assist the state in complying with the new requirements under HAVA; (b) educate voters concerning voting procedures, voting rights, and voting technology; (c) train election officials, poll workers, and election volunteers; (d) develop the state plan required under HAVA; (e) improve, acquire, lease, modify or replace voting systems and methods for casting and counting votes; (f) improve the number and physical accessibility of polling places, including providing nonvisual access for individuals with visual impairments, and providing assistance to Native Americans and to those individuals with limited English language proficiency; (g) establish toll-free numbers that voters may use to report possible voting fraud and voting rights violations, to obtain general election information, and to access detailed automated information of their voter registration status, specific polling place locations, and other relevant information; and (h) improve the administration of elections for federal office.

*Permissible Uses of Title II Funding.* Title II funds may be used by the state to comply with the new requirements under HAVA and, under certain circumstances, to carry out other activities to improve the administration of elections for federal office.

Generally, the state's Title I and Title II HAVA funds need not be expended within a specified timeframe. Unexpended funds may be retained by the state in the election administration fund until used.

## 7. STATEWIDE VOTER REGISTRATION SYSTEM FUNDED FROM THE ELECTION ADMINISTRATION FUND

Recommend utilizing federal funds anticipated under the federal Help America Vote Act of 2002 (HAVA) and credited to the new election administration fund to develop the statewide voter registration system required under the Act. The funds would be expended through a new

appropriation that would fund eligible election administration costs under HAVA This recommendation is included in the Executive Budget Book; however, the bill does not include any estimate of expenditures for this purpose from the new appropriation. If Title I HAVA funds would be used for this initiative, no state match would be required. However, if Title II HAVA funds would be used for the initiative, a 5% state match would be required. The bill does not provide any state matching funds.

*HAVA Requirements for a Statewide Voter Registration System.* Under HAVA, the required statewide voter registration system must: (a) contain the name and registration information of every legally registered voter in the state; (b) assign a unique identifier to each legally registered voter; (c) serve as the statewide single system for storing and managing the official list of registered voters; (d) permit any state or local election official in the state to obtain immediate electronic access to the information or list; (e) permit all voter registration information obtained by a local election official to be electronically entered into the database on an expedited basis at the time the information is provided to the local official; and (f) coordinate with other state agency databases (in particular those of the Department of Transportation) to verify the accuracy of the information provided on applications for voter registration.

*Status of the Wisconsin Statewide Voter Registration System Implementation Plan.* On December 17, 2002, the Joint Committee on Finance provided the Board with one-time funding of $200,000 GPR for consultant services to develop an implementation plan for the required statewide voter registration system, including software development. The Board anticipates that this plan will include: (a) a statement of all the federal, state, and Board statutory and regulatory requirements for the system that will govern software development; (b) a comprehensive, five-year total cost projection based on vendor finalists' cost estimates; (c) draft enabling legislation; and (d) a report to the Legislature explaining the issues studied and why certain statutory and system operations options were either rejected or recommended by the Board. Board staff anticipate that this report will be submitted to the Legislature by May 15, 2003.

*Federal Deadline for Implementation of the System.* HAVA requires the states to have in place an official centralized unitary computerized statewide uniform voter registration list system with interactive capability by January 1, 2004. This deadline may be extended to January 1, 2006, provided the state certifies, by January 1, 2004, that it will not meet the deadline for good cause and certifies the reasons for that failure.

## EMPLOYMENT RELATIONS COMMISSION

### 8. REPEAL QEO PROVISIONS

Make the following changes to the procedures governing collective bargaining for school

district municipal employers:

*Qualified Economic Offer Provisions for Represented Teaching Employees.* Delete current law related to the qualified economic offer (QEO). Under the bill, school district employers and their represented teaching employees would be covered under the statutory interest arbitration procedures currently applicable to all other represented, nonprotective municipal employees in the state.

Under current law, if a school district employer makes a QEO to its professional teaching employees, the employer may avoid arbitration on unresolved economic issues in the employer's final offer. Under a valid QEO, the school district employer must maintain both the existing employee fringe benefits package and the district's percentage contribution effort to that package, subject to an overall new funding commitment of 1.7% of total compensation and fringe benefits costs. Where these new costs are less than 1.7%, the employer must pass on the difference between the lower costs and 1.7% as an additional component of the salary offer. Where the costs are more than 1.7%, the employer may reduce the amount of the salary offer by the amount of the overage. Subject to the fringe benefits additions or offsets, the employer must provide an annual average new funding commitment for all salary items of at least 2.1% of total compensation and fringe benefits costs. As a first draw against any increased salary funding provided under a QEO, the employer must pay seniority-based step increases to all employees eligible for such adjustments.

*Salary and Fringe Benefits Limitations on Nonrepresented Personnel.* Delete current law limiting the total amounts available for salary and fringe benefits increases for nonrepresented school district professional employees during any year to the greater of: (a) an amount generated by multiplying 3.8% of the total prior year's cost of salaries and fringe benefits for such employees, or (b) the total average percentage increase in total salary and fringe benefits increases per employee provided by the school district for the most recent 12-month period ending on June 30 for its represented professional employees.

*Collective Bargaining Units.* Delete the requirement that school district professional employees be placed in a collective bargaining unit that is separate from the units of other school district employees.

*Initial Applicability.* Specify that these provisions first apply to petitions for arbitration that relate to collective bargaining agreements that cover periods beginning on or after July 1, 2003, and that are filed for interest arbitration on the effective date of the bill.

## 9. MUNICIPAL EMPLOYEE INTEREST ARBITRATION MODIFICATIONS

Make the following changes to current interest arbitration and collective bargaining procedures involving municipal employees:

*Modifications to Weighting of Factors That Must Be Considered by an Arbitrator in Rendering*

*Arbitration Awards Involving Non-Protective Municipal Employees.* Create two new factors that must be considered along with other current law factors that must be given "weight" by arbitrators or arbitration panels, when rendering arbitration awards applicable to non-protective municipal employees: (a) any state law or directive lawfully issued by a state legislative or administrative officer, body, or agency which places limitations on expenditures that may be made or revenues that may be collected by a municipal employer; and (b) economic conditions in the jurisdiction of the municipal employer.

These modifications would replace the current law requirements that arbitrators or arbitration panels, when rendering arbitration awards applicable to non-protective municipal employees, give "greatest weight" to state legislative and administrative directives which limit municipal employer spending or revenue collection, and "greater weight" to the economic conditions in the jurisdiction of the municipal employer.

Specify that these revised factors would first apply to petitions for arbitration that relate to collective bargaining agreements that cover periods on or after July 1, 2003, and that are filed on the effective date of the bill.

Under current law, after giving consideration to the items that must be accorded greatest and greater weight, an arbitrator or arbitration panel is required to give weight to the following:

a. The lawful authority of the municipal employer.

b. The stipulations of the parties.

c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.

d. A comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services, with other employees generally in public employment in the same community and in comparable communities, and with other employees in private employment in the same community and in comparable communities.

e. Changes in the cost-of-living.

f. The overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

g. Changes in any of the foregoing circumstances while arbitration proceedings are pending.

h. Other factors normally and traditionally considered in collective bargaining in the public service or in private employment

*New Factor to Be Given "Weight" by an Arbitrator in Matters Affecting School Districts.* Require an arbitrator or arbitration panel, when rendering arbitration awards applicable to school district municipal employers and employees, to give "weight" to a determination as to which party's proposal best provides for a fundamental right to an equal opportunity for a sound basic education under Article X, Section 3, of the Wisconsin Constitution. Specify that this new factor would first apply to collective bargaining agreements that cover periods on or after July 1, 2003.

Article X, Section 3, of the Wisconsin Constitution states: "The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of 4 and 20 years; and no sectarian instruction shall be allowed therein; but the legislature by law may, for the purpose of religious instruction outside the district schools, authorize the release of students during regular school hours."

*School District Education Policy Defined as a Mandatory Subject of Bargaining.* Specify that a school district employer would be required to bargain collectively with respect to education policy, but that no dispute relating to an education policy issue would be subject to compulsory, final and binding arbitration unless all parties to the dispute agree, in writing, to make such an issue subject to arbitration. Under current law, only mandatory subjects of bargaining (that is, matters relating to wages, hours and conditions of employment) are subject to arbitration. Matters that do not relate to wages, hours and conditions of employment are deemed "permissive" subjects of bargaining and are not subject to arbitration, unless the parties to a labor dispute impasse agree to make them subject to arbitration, in which case these matters are treated as mandatory subjects of bargaining for the remainder of the arbitration process.

Stipulate, however, that if a school district employer proposes linking employee compensation or performance expectations with student academic performance, the labor organization could include in its final offer any proposal to meet the performance expectations, including a proposal affecting education policy. Specify that these provisions relating to new mandatory subjects of bargaining would first apply to collective bargaining agreements that cover periods on or after July 1, 2003.

## FINANCIAL INSTITUTIONS

### 10. CREDIT UNION EXAMINATION CYCLE

Modify the statutes governing state-chartered credit unions [Chapter 186] to require DFI to conduct an examination of such credit unions at least once every 18 months, rather than at least once per year, as current law requires. The bill would maintain the current statutory provision allowing DFI to accept, in lieu of the examination, an audit report of the condition of the credit union made by a certified public accountant who is not an employee of the credit union (subject to rules promulgated of the Office of Credit Unions in DFI) or an audit made or approved by the National Credit Union Administration.

## HEALTH AND FAMILY SERVICES -- COMMUNITY-BASED LONG-TERM CARE

### 11. FAMILY CARE -- REPORT ON THE FEASIBILITY OF EXPANDING THE PROGRAM TO ADDITIONAL COUNTIES

Require DHFS to assess the feasibility of expanding Family Care to two additional counties and to report, by July 1, 2004, to the Secretary of the Department of Administration and the Governor concerning the feasibility and whether the expansion should be included as part of the 2005-07 biennial budget bill.

## HEALTH AND FAMILY SERVICES -- HEALTH

### 12. HEALTH CARE INFORMATION

Repeal the current requirement that DHFS collect, analyze, and disseminate claims information and other health care information from health care providers. With this change, DHFS would be permitted, but not required, to conduct these activities.

Under this requirement, DHFS must collect, analyze, and disseminate, in language that is understandable to lay persons, claims information and other health care information, as adjusted for case mix and severity, under Chapter 153 of the statutes, as determined by DHFS rules, from health care providers specified by rules promulgated by DHFS. DHFS may obtain data from health care providers through sampling techniques in lieu of collection of data on all patient encounters, and its data collection procedures must minimize unnecessary duplication

and administrative burdens. If DHFS collects health care provider-specific data from health care plans, it must attempt to avoid collecting the same data from health care providers.

All of the other requirements and responsibilities of DHFS relating to health care information under Chapter 153 would be retained, including the requirement that DHFS assess health care providers from whom DHFS collects data to support specified activities of the Bureau of Health Information.

DHFS collects this information from health care providers in order to provide to hospitals, health care providers, insurers, consumers, governmental agencies, and others information concerning health care providers and to provide information to assist in peer review for the purpose of quality assurance.

## HEALTH AND FAMILY SERVICES -- COMMUNITY AIDS AND SUPPORTIVE LIVING

### 13. ADVISORY COMMITTEE TO DEVELOP RECOMMENDATIONS REGARDING RESTRUCTURING THE HUMAN SERVICES SYSTEM

Require the DHFS Secretary to appoint an advisory committee to develop recommendations concerning restructuring the system under which publicly administered human services and social services programs are funded. Specify that the committee would consist of all of the following: (a) consumers of human services and social services and family members of consumers; (b) human services and social services advocacy organizations; (c) representatives of county governments and associations; (d) representatives of human services and social services provider organizations; and (e) state residents.

Require this advisory committee to consider all of the following goals in developing its recommendations: (a) achieving greater equity and consistency of human services and social services across the state; (b) affirming a human services and social services system that is publicly administered at the local level; (c) fostering human services and social services consumer-directed care; and (d) enhancing accountability for effective, efficient delivery of human services and social services within available resources.

Require the DHFS Secretary to submit, by October 1, 2004, a report to the Legislature and the Governor that presents the considerations and recommendations of the advisory committee.

## UNIVERSITY OF WISCONSIN SYSTEM

### 14. NONRESIDENT TUITION REMISSION FOR CERTAIN UNDOCUMENTED PERSONS

Require the UW System to provide a nonresident tuition remission for a person who is a citizen of another country, if that person meets all of the following requirements: (a) graduated from a Wisconsin high school or received a high school graduation equivalency from this state; (b) the person was continuously present in this state for at least one year following the first day of attending a high school in this state; and (c) the person provides the institution with an affidavit that the person has filed or will file an application for a permanent resident visa with the Immigration and Naturalization Service as soon as the person is eligible to do so. Specify that this provision would first apply to persons who enroll for the semester or session following the bill's effective date.

## WISCONSIN HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY

### 15. WHEDA BOARD

Add the Secretary of the Department of Agriculture, Trade and Consumer Protection, or his or her designee, to the WHEDA Board. The current 12 members of the Board consist of the Secretary of Administration (or his or her designee), the Secretary of Commerce (or his or her designee), six public members appointed by the Governor with the advice and consent of the Senate, one Senator of each party and one Assembly member of each party.

## WORKFORCE DEVELOPMENT -- EMPLOYMENT, TRAINING, AND VOCATIONAL REHABILITATION PROGRAMS

### 16. EQUAL RIGHTS -- AUTHORITY TO BRING ACTION IN COURT

Make the following changes to procedures for bringing action in court for violations of the state family and medical leave, open housing, public accommodations and amusements, and fair employment laws:

Family and Medical Leave. Authorize an employee who believes that his or her employer has violated the state family and medical leave act (FMLA) or DWD to bring an action against an employer in circuit court seeking to remedy the violation and for damages caused by the violation before first going through an administrative hearing process. An action under this

provision could be brought in the circuit court for the county where the violation occurred or for the county where the person against whom the action is filed resides or has a principal place of business. The action would have to be commenced within the later of the following periods or be barred: (a) within 60 days after the completion of an administrative proceeding, including judicial review, concerning the same violation; or (b) within 12 months after the violation occurred or when the Department or employee should reasonably have known that the violation occurred. The 12-month statute of limitations would be counted while an administrative proceeding, including judicial review, concerning the same violation was pending.

In the case of a violation for which an administrative proceeding has commenced, these provisions would first apply to a violation occurring 12 months before the effective date of the bill. For cases where an administrative proceeding has not begun, the new provisions would first apply to violations occurring 30 days before the effective date of the bill.

The bill also includes a provision that specifies that, if the Department initially found that there was no probable cause to believe that a violation occurred as alleged in a complaint, it would be authorized to dismiss the complaint. The Department would be required, by a notice served with the findings, to notify the parties of the complainant's right to appeal the dismissal of the complaint by requesting a review of the findings by a hearing examiner. The review would be based solely on the Department's record of the complaint. Service of the findings would have to be made by certified mail, return receipt requested. If the hearing examiner determined that no probable cause existed, the determination would be the final determination of the Department, subject to judicial review.

Under the state's family and medical leave law, all employers with 50 employees or more are required to allow: (a) an employee of either gender to have up to six weeks of leave in a 12-month period for the birth or adoption of a child; (b) an employee to have up to two weeks of leave in a 12-month period for the care of a child, spouse, or parent with a serious health condition; and (c) an employee to have up to two weeks of leave in a 12-month period for the employee's own serious health condition.

Under current law, an employee who believes his or her employer has violated provisions of the state FMLA may file a complaint with DWD by the later of 30 days after the violation occurs or when the employee should have reasonably known the violation occurred. The Department is required to investigate the complaint and attempt to resolve it without a formal hearing. If the complaint is not resolved and the Department finds probable cause to believe a violation of the law has occurred, the Department must hold a hearing on the complaint. DWD is required to issue its decision and order within 30 days after the hearing. An employee or the Department may bring an action in circuit court against an employer to recover damages caused by a violation of FMLA after completion of an administrative proceeding, including judicial review.

Open Housing. The state's open housing law prohibits housing discrimination based on

race, religion, national origin, ancestry, gender, age-18 and over, disability, lawful source of income, marital status, sexual orientation, and family status.

Under current law, DWD is authorized to investigate a complaint charging a violation of the open housing law if the complaint is filed within one year after the alleged discrimination occurred or terminated. The Department is required to investigate and make a determination as to whether probable cause exists to believe the discrimination occurred or is about to occur. If the Department initially determines that there is no probable cause to believe that the discrimination occurred as alleged in a complaint, the Department is authorized to dismiss the complaint. DWD must then notify the parties of the complainant's right to appeal to the Secretary of Workforce Development the dismissal of the complaint by requesting a hearing on the issue by a hearing examiner. If the hearing examiner determines that no probable cause exists, the determination is the final determination of the Department. The final determination is subject to judicial review.

The bill would specify that reviews of DWD decisions regarding probable cause by hearing examiners would have to be based solely on the Department's record of the complaint. In addition, requests for such reviews would no longer have to be filed with the Secretary of DWD.

Public Accommodations and Amusements. The bill would include a provision that would specify, in cases where there was a complaint alleging a violation against the state public accommodations and amusements law, if DWD initially found that there was no probable cause to believe that a violation occurred as alleged in a complaint, it would be authorized to dismiss the complaint. The Department would be required, by a notice served with the findings, to notify the parties of the complainant's right to appeal the dismissal of the complaint by requesting a review of the findings by a hearing examiner. The review would be based solely on the Department's record of the complaint. Service of the findings would have to be made by certified mail, return receipt requested. If the hearing examiner determined that no probable cause existed, the determination would be the final determination of the Department. The final determination would be subject to review by the Labor and Industry Review Commission (LIRC) and to judicial review.

The state public accommodations and amusements law prohibits discrimination in public places based on race, creed, national origin, ancestry, gender, physical condition, developmental disability, or sexual orientation. DWD is authorized to investigate a complaint charging a violation of the public accommodations and amusements law if the complaint is filed within 300 days after the alleged prohibited act occurred. The Department is required to investigate and make a determination as to whether probable cause exists to believe the discrimination occurred or is about to occur. If the complaint is not resolved and the Department finds probable cause to believe a violation of the law has occurred, the Department must hold a hearing on the complaint.

Fair Employment. The bill includes provisions related to complaints filed with DWD that

charge discrimination, unfair honesty testing, or unfair genetic testing in violation of the state's fair employment law. Under one provision, if the Department initially found that there was no probable cause to believe that discrimination, discriminatory practices, unfair honesty testing, or unfair genetic testing occurred or was occurring as alleged in a complaint, it would be authorized to dismiss the complaint. DWD would be required, by a notice served with the findings, to notify the parties of the complainant's right to appeal the dismissal of the complaint by requesting a review of the findings by a hearing examiner. The review would be based solely on the Department's record of the complaint. Service of the findings would have to be made by certified mail, return receipt requested. If the hearing examiner determined that no probable cause existed, the determination would be the final determination of the Department. The final determination would be subject to review by the Employment Relations Commission and to judicial review.

The bill would also authorize any person, including the state, alleging that discrimination, unfair honesty testing, or unfair genetic testing had occurred to bring a civil action seeking compensation before first going through an administrative hearing process. Such an action would have to be brought in the circuit court for the county where the violation occurred or for the county where the person against whom the action is filed resides or has a principal place of business. The action would have to be commenced within 300 days after the alleged violation occurred. The 300-day statute of limitations would be counted while an administrative proceeding concerning the same violation was pending. This provision would first apply to an act of employment discrimination, unfair honesty testing, or unfair genetic testing occurring 300 days before the effective date of the bill.

The state fair employment law prohibits discrimination based on race, creed, national origin, ancestry, age, gender, handicap, arrest or conviction record, sexual orientation, marital status, and membership in the military reserve. It prohibits unfair honesty testing and genetic testing. It also prohibits discrimination because of filing or assisting with a Labor Standards complaint or because of use or non-use of lawful products.

Currently, DWD is authorized to receive and investigate a complaint charging discrimination, discriminatory practices, unfair honesty testing, or unfair genetic testing if the complaint is filed no later than 300 days after the alleged violation occurred. The Department is required to investigate the complaint and if it finds probable cause to believe a violation of the law has occurred, the Department may attempt to resolve the complaint without a formal hearing. However, if the complaint cannot be resolved in this manner, the Department must hold a hearing on the complaint. DWD is required to issue its decision and order after the hearing. Any respondent or complainant who is dissatisfied with the findings and order of the hearing examiner may file a written petition with DWD for review by LIRC.

## 17. CLIENT ASSISTANCE FOR REEMPLOYMENT AND ECONOMIC SUPPORT (CARES) COMPUTER SYSTEM

Require DWD and DHFS to submit a proposal, by March 1, 2004, to the DOA Secretary for expenditure and position authority to transfer agreed upon administrative functions related to the CARES computer system from DWD to DHFS, effective July 1, 2004. Specify that if the Secretary of DOA finds that the proposal would increase the costs of administering the system, the Secretary would have to disapprove the plan, and DHFS and DWD would be required to resubmit a proposal to the Secretary for consideration in the 2005-07 biennial budget bill. If the DOA Secretary finds that the proposal would not increase the cost of administering the system and approves the plan, the Secretary would be required to submit the proposal to the cochairpersons of the Joint Committee on Finance for approval under the 14-day passive review process.

The CARES system is currently used to determine eligibility, issue benefits, and manage support for medical assistance, food stamps, the SSI caretaker supplement, Senior Care, child care subsidies, and TANF work programs.

## 18. STUDY ON LABOR MARKET PARTICIPATION ASSISTANCE

Require DWD to conduct a study to determine the best ways to assist low-income, custodial parents and other at-risk, low-income adults in entering and successfully participating in the labor market. Encourage DWD, in conducting the study, to consult with other state agencies, public and private organizations, and individuals with expertise in the subject area. Require DWD to submit a report on the results of the study, including DWD's findings and recommendations, to the Legislature and the Governor, no later than June 30, 2004.

## 19. STUDY ON USE OF FEDERAL FUNDING FOR EMPLOYMENT AND EDUCATION AND TRAINING SERVICES FOR LOW-INCOME INDIVIDUALS

Require DWD to investigate ways in which federal funding, other than TANF funds, including but not limited to Workforce Investment Act funding, may be used to create a more seamless system of employment and education and training services for low-income adults in Wisconsin. Require DWD to submit a report to DOA on the findings of its investigation no later than December 31, 2003.

## WORKFORCE DEVELOPMENT -- CHILD SUPPORT

### 20. STATE IS REAL PARTY IN INTEREST IN CHILD SUPPORT CASES IF PARTY IS RECEIVING FOOD STAMPS

Specify that, in a child support case, if the custodial parent is receiving food stamps, the state would be a real party in interest for the purposes of establishing paternity, securing future support, or seeking reimbursement of aid paid in an action affecting the family of which the custodial parent is a member. As a real party in interest, the state may initiate an action or join in an action that is already underway. Current law enumerates a number of situations in which the state is a real party in interest for these purposes, including when the state provides certain services or benefits on behalf of a child (foster care aid or medical assistance) or provides certain services or benefits to the child's custodial parent (services or benefits under the Wisconsin Works, Kinship Care, and Wisconsin Shares child care subsidy programs). Under current law, however, the state is not identified as a real party in interest in cases in which the custodial parent is receiving food stamps.

### 21. SERVICE BY MAIL FOR SUPPORT ORDER REVISIONS

Provide that, in an action to modify a child support judgment or order, due-process requirements would be met if the court finds the following: (a) that a diligent effort was made to ascertain the location of the respondent; and (b) that written notice of the action to the respondent has been delivered to the most recent residential or employer address that the respondent provided to the county child support agency. Under current law, notice of an action to modify a child support judgment or order is required to be given by personal service, such as by a sheriff or deputy. The change would allow support order modifications to be treated in the same manner as actions to enforce a child support order.